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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209496
Party	Defendant Defy Gravity, LLC
Correspondence Address	ANNETTE P. HELLER HELLER & ASSOCIATES 400 CHESTERFIELD CTR STE 400 CHESTERFIELD, MO 63017-4800 tmattorneypto@aol.com
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Date	04/03/2013
Attachments	Defy Gravity Answer.pdf (7 pages)(46273 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Vuly Pty Ltd.)	
)	
Opposer,)	
)	
v.)	Opposition No. <u>91209496</u>
)	
Defy Gravity, LLC)	
Applicant.)	
_____)	

APPLICANT'S ANSWER TO OPPOSER'S
NOTICE OF OPPOSITION

In answer to the Notice of Opposition filed by Opposer Vuly Pty Ltd, Applicant Defy Gravity, LLC states the following:

1. Applicant admits the allegations set forth in Paragraph 1 of the Notice of Opposition.
2. Applicant admits the allegations set forth in Paragraph 2 of the Notice of Opposition.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.
4. Applicant admits the allegations set forth in Paragraph 4 of the Notice of Opposition.

5. Applicant admits the allegations set forth in Paragraph 5 of the Notice of Opposition.

6. Applicant admits the allegations set forth in Paragraph 6 of the Notice of Opposition.

7. Applicant admits the allegations set forth in Paragraph 7 of the Notice of Opposition.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

11. Applicant denies each and every allegation set forth in Paragraph 11 of the Notice of Opposition.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13 of the Notice of Opposition and, accordingly,

denies each and every allegation set forth therein.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

15. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 15 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

_____16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 16 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 17 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

18. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 18 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 19 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

20. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 20 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

21. Applicant admits the allegations set forth in Paragraph 21 of the Notice of Opposition.

22. Applicant admits the allegations set forth in Paragraph 22 of the Notice of Opposition.

23. Applicant admits the allegations set forth in Paragraph 23 of the Notice of Opposition.

24. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 24 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

25. Applicant admits that it has common law rights in the State of Nebraska for its uses of the applied-for mark DEFY GRAVITY & design.

26. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 26 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

27. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 27 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

28. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 28 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

COUNT I - LIKELIHOOD OF CONFUSION

29. All prior responses are incorporated herein by reference.

30. Applicant admits the allegations set forth in Paragraph 30 of the Notice of Opposition.

31. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 31 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

_____32. Applicant admits only that its application is pending in Class 41 for “entertainment services, namely, providing indoor amusement, sports, and trampoline facilities.”

33. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 33 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

34. Applicant admits only that it promotes its services using the internet.

35. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 35 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

36. Applicant denies each and every allegation set forth in Paragraph 36 of the Notice of Opposition.

37. Applicant denies each and every allegation set forth in Paragraph 37 of the Notice of Opposition.

38. Applicant admits that if its application is permitted to mature to registration on the Principal Register, it will provide Applicant with *prima facie* evidence of the exclusive right to

use the mark DEFY GRAVITY, including a natural zone of expansion of exclusive rights.

Applicant denies each and every remaining allegation set forth in Paragraph 38 of the Notice of Opposition.

39. Applicant denies each and every allegation set forth in Paragraph 39 of the Notice of Opposition.

COUNT II - FALSE ASSOCIATION

40. All prior responses are incorporated herein by reference.

41. Applicant denies each and every allegation set forth in Paragraph 41 of the Notice of Opposition.

42. Applicant denies each and every allegation set forth in Paragraph 39 of the Notice of Opposition.

43. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 43 of the Notice of Opposition and, accordingly, denies each and every allegation set forth therein.

DENIAL OF PRAYER FOR RELIEF

Applicant denies that Opposer is entitled to any of the relief sought in its prayer for relief against Applicant.

Respectfully submitted,

DEFY GRAVITY, LLC

By: /aph72/

Dated: 4/3/2013

Annette P. Heller

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served by mailing said copy on 4/3/2013 via U.S. Mail, postage pre-paid, to:

Jeffrey H. Greger

Lowe Hauptman Ham & Berner, LLC

2318 Mill Rd., Suite 1400

Alexandria, VA 22314

 /aph72/

Annette P. Heller, Attorney for Applicant